

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**JOSEPH N. SANCHEZ,**

**Defendant.**

**CASE NO. 8:04CR402**

## TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”). Also, although the government did not file its objections, the Court notes the reference to the government’s objections in the Addendum to the PSR. See Order on Sentencing Schedule, ¶ 6. The Court has also reviewed the Defendant’s motion for downward departure and the attached evidence (Filing No. 39) contemplated in ¶ 10d of the plea agreement. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The government objects to the enhancements in ¶¶ 22 and 24 of the PSR, as these enhancements are inconsistent with sentencing guideline calculation agreed upon in the plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). The objections are granted, and the base offense level is 28, the adjusted offense level is 28, and with credit for acceptance of responsibility the total offense level is 25. The fine range is \$10,000 to \$200,000.

IT IS ORDERED:

1. The government's Objections to the Presentence Investigation Report (PSR, Addendum) are granted;
2. The Defendant's motion for downward departure (Filing No. 39) will be heard at the sentencing hearing;
3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
5. Absent submission of the information required by paragraph 4 of this Order, my tentative findings may become final; and
6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 25<sup>th</sup> day of April, 2005.

BY THE COURT:

s/ Laurie Smith Camp  
United States District Judge